

File: M 470013  
cc: Paul

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AUG 10 2006



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Utah State Office

P.O. Box 45155

Salt Lake City, UT 84145-0155

<http://www.blm.gov>

DIV. OF OIL, GAS & MINING



IN REPLY REFER TO:

3590

UT (923)

AUG 07 2006

CERTIFIED MAIL - Return Receipt Requested

Mr. Gordon Ziegler  
Ziegler Mineral and Chemical Corp  
30 Jerico Executive Plaza  
Suite 300 C  
Jerico, New York 11753

Re: Exploration Drilling on the Independent Vein (Federal Gilsonite Lease U-0126939)

### NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of non-compliance to Ziegler Chemical and Mineral for failure to comply with the exploration plan that was approved on Aug 8, 2005.

On May 31, 2006 BLM inspected the exploration site on the Independent Vein (Federal Gilsonite Lease UTU-126939). There were numerous violations of the approved exploration plan. They are listed below. BLM is quite concerned about the lack of professionalism that Ziegler Chemical and Mineral personnel showed in conducting this exploration by not following the approved plan.

- 1) Number and location of drill sites. The exploration plan called for 3 holes to be drilled from the same site. In this instance there were 4 holes drilled from 4 different locations in the vicinity of what was designated as approved drill location #1. The location was to be on a 2 track road with very little disturbance. Ziegler ran vehicles over land creating about 1,280 feet of new two track trails and disturbed an area over 1 acre in size in the immediate area where 4 slant holes were drilled, see figure below. The drill holes were not in the approved locations.
- 2) Ziegler stated in the approved plan that the AO and Vernal Field Office would be notified at least 2 days prior to the commencement of drilling. Notification of drilling commencement was to take place no later than five days after drilling commenced. These actions did not take place.

- 3) Plugging. Ziegler was committed and was approved to plug the holes from top to bottom with cement. This has not been done.
- 4) Information: Ziegler was to submit information about the drilling within 30 days of the end of drilling. This has not been done.
- 5) Mud pits: Pits were to be filled in after drilling. This was not done.



**Figure 1 Picture of the drilling area**

Requirements to Correct the Mining Plan Noncompliance:

- 1) Within 30 days of receipt of this letter submit the data on the drilling information. This includes but not limited to the size of each the hole, when it was drilled, depth of each hole and what was found during drilling.
- 2) Within 30 days of receipt of this letter Zeigler must do one of the following:
  - a. Plug all holes in accordance with the approved plan. BLM requires that Ziegler notify BLM 10 days prior to plugging the holes with the schedule for plugging in order that the plugging can be witnessed by BLM. If Ziegler wishes to modify this approval, then they must apply to BLM to change their plan. The plan must meet the following requirement from the Division of Oil, Gas and Mining. Fill in the mud pit (blue square on enclosed figure).

- 3) Within 30 days of receipt of this letter, Ziegler Chemical and Mineral Corporation must submit a plan for surface reclamation of the area in noncompliance. This will include but not be limited to the following:
- a. Zeigler must plant in the fall (end of September 2006 but before freezing temperatures) a 1:1 mix of crested wheat grass and shadscale saltbrush at the rate of 4 lbs per acre in the area which the drilling took place (approximately 1 acre). This seed must be hand raked into the soil.
  - b. Ziegler will make arrangements to plant sagebrush seedlings (black sage species) in the fall of 2007. Seeding of sage will not be acceptable. These will be hand planted at a rate of 50 per acre.
  - c. Roadways will be ripped/scarified and planted with the propose a ratio of seed mix recommended by the BLM Vernal Field Office which includes 4 lbs of needle-and-thread grass (*Stipa comata*), and 4 lbs of shadscale saltbrush (*Atriplex confertifolia*), and 1 lb Black Sage (*Artemisia nova A. Nels.*)
  - d. Ziegler must include in the plan a multi-year period of monitoring by Ziegler in which they will monitor for stability and revegetation; they will control/abate any instability (e.g., erosion), would control emergence of undesirable vegetation and replant-seed areas where vegetative cover is lacking. In 2008 Zeigler will contact the AO to arrange a joint inspection to review the progress of reclamation in 2008; and the NON would be closed when the reclamation is found to be to the satisfaction of the BLM Authorized Officer.

Compliance: Failure to comply with this Notice of Non-Compliance could result in a further action in accordance with 43 CFR 3598.4 regulations and could include lease cancellation.

Appeal Rights:

You have 30 calendar days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosure 2 form 1842-1. If an appeal is pursued, your notice of appeal must be filed in this office within 30 calendar days following at the end of the compliance period. The appellant has the burden of showing that the decision appealed is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

If you have any questions, feel free to contact Mr. Stan Perkes (801) 539-4036.

James F. Kohler

*JAMES F KOHLER*

Chief, Solid Minerals Branch

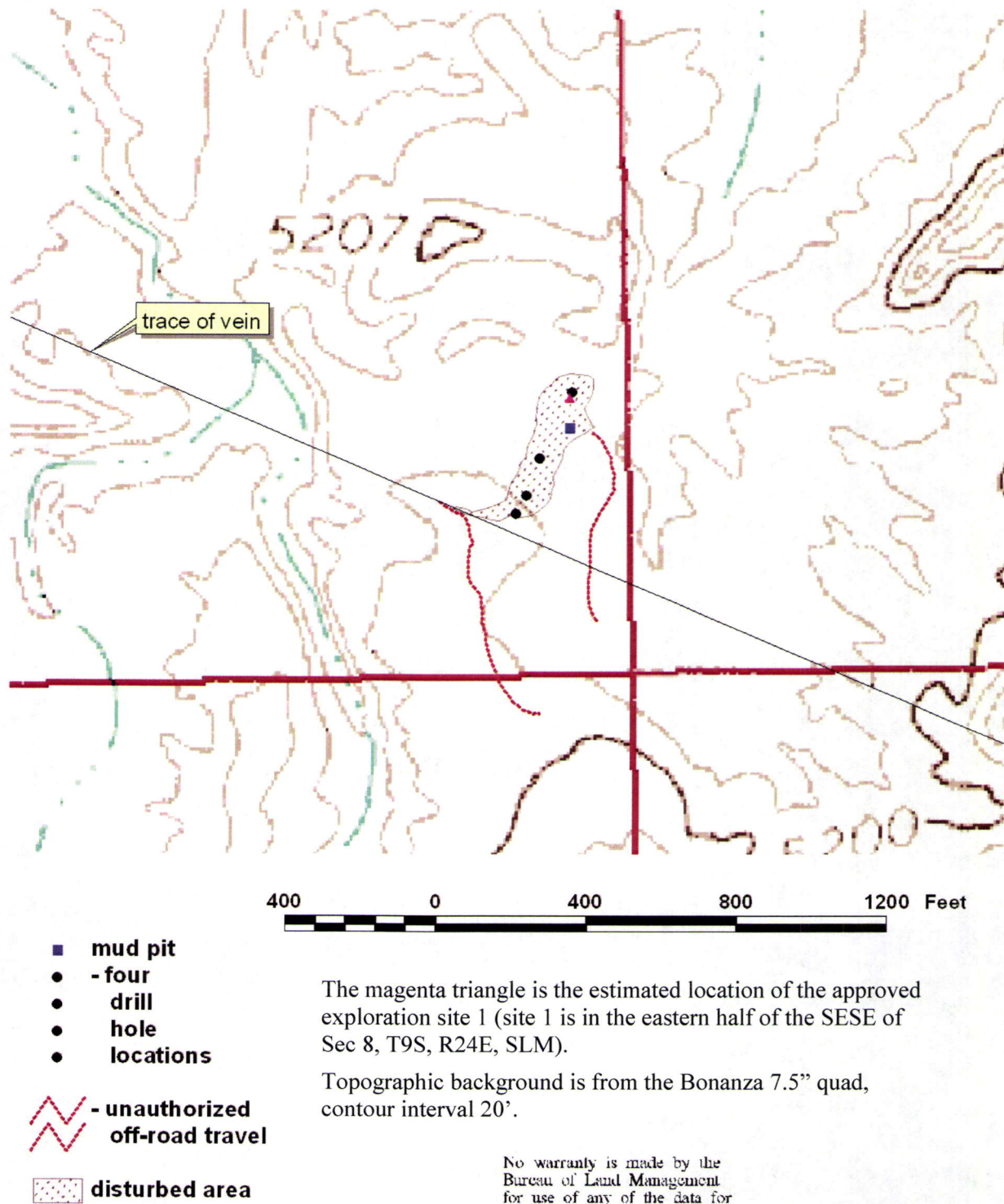
Enclosures 2

Non Compliance Map  
Form 1842-1

cc: Ms. Valyn Davis, Ziegler Chemical & Mineral, P.O. Box 1845, Vernal, Utah 84078  
Central Files  
Vernal Field Office  
Utah Division of Oil, Gas, and Mining (Attn. Paul Baker), 1594 West North Temple,  
Suite 1210, Box 145801, Salt Lake City, UT 84114-5801  
Files - UTU-0126939  
Chron File

NON 08-01-2006 sp-sa

Enclosure figure to notice of noncompliance on federal gilsonite lease U0126939



Enclosure 1

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS**

**DO NOT APPEAL UNLESS**

1. This decision is adverse to you,  
AND
2. You believe it is incorrect

**IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED**

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| <b>1. NOTICE OF APPEAL.....</b>  | A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the <b>FEDERAL REGISTER</b> , a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).   |
| <b>2. WHERE TO FILE NOTICE OF APPEAL.....<br/><br/>WITH COPY TO SOLICITOR...</b> | Bureau of Land Management, Utah State Office, P. O. Box 45155, Salt Lake City, Utah 84145-0151 or<br>Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101<br>and<br>Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111   |
| <b>3. STATEMENT OF REASONS<br/><br/>WITH COPY TO SOLICITOR.....</b>              | Within 30 days after filing the Notice of Appeal, File a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413).<br><br>and<br>Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111  |
| <b>4. ADVERSE PARTIES.....</b>   | Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.   |
| <b>5. PROOF OF SERVICE.....</b>  | Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).   |
| <b>6. REQUEST FOR STAY.....</b>  | Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.<br><br>Standards for Obtaining a Stay. Except as other provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay. |

Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

**NOTE:** A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

## 43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

### STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska  
Arizona State Office ----- Arizona  
California State Office ----- California  
Colorado State Office ----- Colorado  
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri  
and, all States east of the Mississippi River  
Idaho State Office ----- Idaho  
Montana State Office ----- Montana, North Dakota and South Dakota  
Nevada State Office ----- Nevada  
New Mexico State Office ----- New Mexico, Kansas, Oklahoma and Texas  
Oregon State Office ----- Oregon and Washington  
Utah State Office ----- Utah  
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

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(Form 1842-1, September 2005)